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C O N F I D E N T I A L SECTION 01 OF 02 BUCHAREST 000427

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STATE FOR EUR/CE ASCHIEBE AND EUR/OHI SE KENNEDY

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TAGS: [EFIN](#) [ETRD](#) [ECON](#) [CASC](#) [PGOV](#) [RO](#)

SUBJECT: ROMANIA: PROPERTY FUND MOVES FORWARD EVEN AS
RESTITUTION SLOWS

REF: 08 BUCHAREST 647

Classified By: Charge d'Affaires, a.i. Jeri Guthrie-Corn for reasons 1.
4 (b) and (d).

11. (SBU) Summary. The long process of property restitution in Romania took a step in the right direction with the June 9 announcement that the American firm Franklin Templeton had won the bid to manage the Property Restitution Fund ("the Fund"). As reported reftel, delays in the manager selection process have threatened the ultimate viability of the Fund as a restitution vehicle. Other critical steps still remain. Until the Fund's shares are publicly listed, its shareholders remain attractive targets both for outside investors and for the Government of Romania (GOR), which has periodically expressed an interest in regaining control of dividend-paying former state assets now included in the Fund. While the selection of a fund manager is positive, the overall restitution process has slowed considerably under the current government. End Summary.

12. (SBU) Background: The GOR established the Property Restitution Fund in 2005 to compensate victims of illegal communist-era expropriations in cases where the actual return of property is no longer possible, for example where a school was built on the site of a former home. The Fund provides financial compensation by granting shares, to both victims and their heirs, in a fund comprising state-owned companies and privatized companies in which the GOR has retained a minority stake. The Fund currently contains shares in 88 Romanian firms, with large stakes in companies such as: Petrom, Transelectrica, Transgaz, Romgaz, the Romanian Post Office, Hidroelectrica, EON Gaz Romania, and Bucharest's Otopeni Airport. Former property owners apply for compensation from the National Agency for Property Restitution (ANRP), which assesses the current market value of the expropriated properties and issues damage titles redeemable for cash (up to 500,000 RON) and Fund shares for property values exceeding that cash limit. The initial face value of one share was established at 1.00 RON (approximately U.S. 32 cents); however, the official accounting value has since fallen to 0.76 RON. End Background.

13. (C) Following a competitive tender which included an impressive line-up of top investment firms, the Selection Committee of the Supervisory Board of the Romanian Property Fund announced the selection of Franklin Templeton Investment Management Ltd. as the new asset manager on June 9th. As manager, Franklin Templeton will administer approximately 2.7 billion euro in assets and be charged with listing the Fund on the Bucharest Stock Exchange. This long-delayed listing has been an oft-repeated public policy goal since the Fund's inception. While this process should be nearing completion, new hurdles seem to pop up regularly. No sooner was the manager selection announced than Mircea Ursache, the President of the Supervisory Board, issued a press release on June 15th complaining about the cost of hiring Franklin Templeton and arguing that the current Supervisory Board

arrangement is much less expensive and should be retained. Other members of the Board, notably ANRP President Anca Opre, have privately told post that regardless of the chairman's statements, they expect Franklin Templeton's management contract to be finalized "within weeks." (Comment: Board members are lavishly compensated, and Ursache's statement has much more to do with keeping hands in the cookie jar than it does with saving money for Fund shareholders. Post has registered with senior GOR officials our firm position that the manager selection results be respected. End comment.)

¶4. (SBU) Because the Fund itself is a closed investment vehicle with a fixed number of shares, the majority shareholder continues to be the GOR with 66 percent of outstanding shares. That proportion is gradually reduced as individual beneficiaries receive approval for compensation from the ANRP. Currently, 2,471 private shareholders are registered with the Fund. Once transferred, shares are the sole property of the new shareholders and may be freely sold. The long-delayed listing of the Property Fund has meant that any such transactions take place on the unregulated "grey market."

¶5. (SBU) The lack of formal market mechanisms governing the purchase and sale of shares has presented an opportunity to investors to offer prices per share well below the Fund's net asset value (NAV). In many cases shareholders--who are often elderly and have little financial savvy--do not realize that the Fund's underlying assets are potentially worth significantly more than what investors are offering on the grey market. The gap is considerable, with the fund reporting a book value of 0.76 RON per share, but with sales

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prices purportedly averaging 0.07-0.15 RON per share. Outside investors have taken notice, buying an estimated 500 million shares in the first five months of this year alone. Surprisingly, the most active traders in the grey market are real estate rather than stockbrokers, who target pensioners in newspaper classified ads on behalf of interested investors. Purchased shares are then sold on to wealthy individuals and investment firms. Several American firms have accumulated significant stakes in the Fund through purchases on the unregulated market.

¶6. (SBU) Finally getting the Fund listed on the stock exchange will solve one potentially major problem, the willingness of some in the GOR to explore the "return" of assets from the Fund to individual ministries. The Ministers of Economy and Communications and IT have both publicly announced intentions to move in this direction. The Ministry of Economy would like shares in energy companies, particularly Nuclearelectrica, returned, while the Ministry of Communications and IT would like to regain control of the Fund's shares in the National Post Office. If realized, such moves would have major negative implications for the Fund's overall value as well as the value of remaining individual shares. While neither proposal appears to have yet garnered much traction, as long as the Fund remains under the authority of a government-run supervisory board there is a real risk that the largest shareholder (the GOR) will take actions inimical to the interests of other shareholders.

¶7. (C) On the broader issue of restitution, PolOff and EconOff discussed pending cases with the PSD-appointed head of the ANRP, Anca Opre, on June 17th. Opre is interested in improving the legislative framework governing property restitution, saying that the current system allows localities too much power to delay final settlement. Opre acknowledged that one worrying trend is the delay in finalizing dossiers due to lack of funds. According to Opre, nearly 18,000 cases are currently pending before the agency, some of which are incomplete and require additional action on the local level. Even on otherwise complete applications, Opre admitted, the ANRP is moving slowly because claimants may choose to receive partial compensation in cash, which Opre said the GOR simply

does not have in the current economic downturn. While this may be part of the reason for the slowdown in processing, the PSD's long-standing hostility toward the property restitution process is most likely also informing Opre's views. Regardless of the reason, progress on cases has slowed dramatically under Opre's tenure as ANRP President.

18. (C) Comment. Opre's acknowledgement that the GOR is not allocating sufficient funds to pay restitution claims is troubling, and points to a problem that the Property Fund was supposed to solve: the lack of money to satisfy all claimants. The longer the Fund goes unlisted, the less claimants trust the promise of future dividends, and the more likely they are to demand cash payments or to sell their Fund shares on the grey market at discounted values. Either because cash is unavailable or because of PSD hostility, post believes that the ANRP has been instructed to slow the pace of approvals down, drawing out the already lengthy restitution process. Recent developments with the Fund at least paint a marginally brighter picture. On the positive side, the formal selection of a fund manager is a hopeful sign that the GOR intends to continue forward on the process of listing the Fund. On the negative side, the recent economic downturn has led some government ministries to seek new sources of income. The dividends paid by companies in the Property Fund's portfolio present a tempting target. Transferring (more bluntly put, re-nationalizing) assets is theoretically possible as long as the GOR retains direct control. The sooner a better firewall can be built between the interests of the Government and the interests of the private shareholders in the Property Fund, the better. The best way to protect the interests of the American shareholders is by completing the hiring of an outside manager and listing the Fund on a regulated market. In post's view, this cannot happen soon enough. End Comment.
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